

Before the Grievance Commission
Board of Overseers of the Bar
File No. 87-K-138

REPORT OF FINDINGS AND CONCLUSIONS OF PANEL D OF THE GRIEVANCE COMMISSION

A detailed Answer had been filed on behalf of Respondent, and prior to the scheduled hearing, through the cooperation of Bar Counsel and Respondent's Counsel, a detailed Stipulation of Facts was agreed to resulting in an expeditious hearing and the opportunity for Bar Counsel and Respondent's Counsel to offer summary statements and Respondent to offer statements of explanation or information of any mitigating circumstances with the Panel of the Grievance Commission having the opportunity to ask questions of Respondent.

After the Grievance Commission Panel reviewed the Stipulation of Facts, the Panel accepted the Stipulation as presented to be part of the record of this proceeding, which Stipulation admitted a violation of Bar Rule 3.6(a)(3) warranting the imposition of a public reprimand under the facts and circumstances of this case.

FINDINGS OF FACT

Although the findings of fact are summarized in detail in the Stipulation filed in this matter, the Panel, for the purposes of this decision, briefly summarizes those facts as stipulated.

Respondent was hired by Daniel T. Stevens to represent said Stevens in a real estate dispute. The case progressed through the Cumberland Superior Court to a trailing docket trial list in October of 1986. On October 14, 1986, Respondent in a communication with the Clerk of the Courts was advised that the present trial was expected to end the following day, and the Court would likely look for a longer case to complete the week's calendar schedule, and Respondent's case on behalf of Stevens was listed as a one-half day case. Respondent left his office the following day, October 15, approximately 4:00 p.m., not having heard from the Clerk with regard to the trailing docket, and after his departure, the Clerk did telephone Respondent's office to indicate that the case had been reached and would be called for trial on October 16, 1986. Respondent did not receive that message through his office, and was out of the office for several days, resulting in a default judgment being entered in Superior Court. Respondent's client was a non-resident of Maine and though he did notify his client's nephew, who was a close friend and a resident of Maine, apparently that information was not directly transmitted to his client, Mr. Stevens. More than 9 months subsequent to the entry of default judgment,

Respondent finally wrote to Mr. Stevens on September 22, 1987, informing him of dismissal of the Court action and the reason that the dismissal had occurred. Subsequently, Stevens filed a complaint with the Grievance Commission and ultimately Bar Counsel filed a Petition in this case leading to the Answer and Stipulations of Facts outlined.

CONCLUSIONS AND DETERMINATION OF THE PANEL

Following the acceptance of the Stipulation of Facts and Summary Comments by Assistant Bar Counsel and Counsel for Respondent, Respondent offered explanations of circumstances surrounding this case which the Grievance Commission Panel considered in its deliberations.

Respondent explained his embarrassment with regard to the outcome of this case, particularly with regard to the long-standing personal friendship with Complainant Stevens and various members of his family going back prior to Respondent even going to law school. Respondent explained that during the time of his departure from the office, his secretary was also out of the office under medical care, which could be considered as a contributing factor to Respondent not receiving the Court's message in his absence. Respondent explained that because of his close personal friendship with Complainant and his family, personal embarrassment was a contributing factor to the delay in communicating the litigation outcome with the Complainant, Respondent explained the desire and an attempt to seek a personal meeting in Maine with Complainant to explain the circumstances rather than explaining them by letter, efforts to re-open the default without cost to

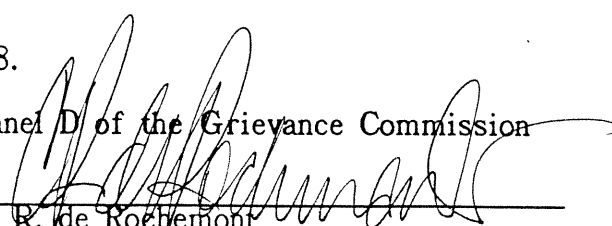
Complainant, potential alternative remedies on the issues of the litigation, and Bar Counsel reported that conversations with Complainant Mr. Stevens explaining the proposed Stipulation and that he did not have any objections to this proceeding based on the Stipulation of Facts.

In considering the appropriate discipline to impose in this case, the Panel took into consideration the cooperation of Counsel in the Stipulation of Facts, Respondent's explanations and expressed regret, all the facts and mitigating circumstances, and the fact that Respondent had no record of prior discipline before the Commission.

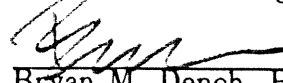
The purpose of the Maine Bar Rules is to protect the public interest and to do so by administering discipline in a manner that would prevent future misconduct. Where the Stipulation of Facts by the parties reflect a conduct in violation of Bar Rule 3.6(a)(3) involving the neglect of a legal matter entrusted to respondent, and clearly where respondent failed for a considerable period of time to adequately inform his client of the detrimental legal outcome of the Court proceeding, the Grievance Commission Panel finds that this matter should be concluded by the imposition of a reprimand, and that Respondent is hereby reprimanded for his violation of said Bar Rule 3.6(a)(3).

Dated this 30th day of November, 1988.

Panel D of the Grievance Commission


C. R. de Rochemont


William F. Hufnagel, Esq.


Bryan M. Dench, Esq.